

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:16-cv-62-FDW**

DEVIN HYMAN, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
                        )  
vs.                   )                           **ORDER**  
                        )  
                        )  
FNU MILLER, et al., )  
                        )  
                        )  
Defendants.         )  
                        )  
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**THIS MATTER** is before the Court on periodic status review following the return of mail sent to Plaintiff's listed address as undeliverable, and on Defendants' Motion for Status Update, (Doc. No. 116). On March 5, 2019, the Court granted summary judgment to Defendants on all but one excessive force claim brought by Plaintiff in this action. (Doc. No. 114). Plaintiff's current address is listed on the docket report as Maury Correctional Institution. On March 14, 2019, the Court received notice that this Court's order was being returned as undeliverable, as Plaintiff is no longer at that address. (Doc. No. 115). The North Carolina Department of Public Safety website indicates that Plaintiff was released from prison on April 19, 2018. There is no updated address for the Court to contact Plaintiff.

Plaintiffs have a general duty to prosecute their cases. In this regard, a pro se plaintiff must keep the Court apprised of his current address. See Carey v. King, 856 F.2d 1439, 1441 (9th Cir. 1988) ("A party, not the district court, bears the burden of keeping the court apprised of any changes in his mailing address."). Where a pro se plaintiff has failed to notify the Court of his change of address, the action is subject to dismissal without prejudice for failure to prosecute. Accord Walker v. Moak, Civil Action No. 07-7738, 2008 WL 4722386 (E.D. La. Oct. 22, 2008)

(dismissing without prejudice a § 1983 action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure where the plaintiff did not notify the court of his new address upon his release from jail). Before dismissing this action for failure to prosecute, the Court will give Plaintiff ten days in which to notify the Court of his updated address.<sup>1</sup>

**IT IS, THEREFORE, ORDERED that:**

1. Plaintiff shall have ten days from service of this Order in which to notify the Court of his change in address. If Plaintiff fails to respond to this Order within ten days, the remaining claim in this action will be dismissed without prejudice and without notice to Plaintiff.
2. The Clerk is directed to mail this Order to Plaintiff's address as listed on the Court's docket report.
3. Defendants' Motion for Status Update, (Doc. No. 116), is **GRANTED**.

Signed: March 25, 2019



Frank D. Whitney  
Chief United States District Judge



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<sup>1</sup> Of course, since Plaintiff is no longer incarcerated at Maury Correctional Institution, this Order will likely be returned as undeliverable. Nevertheless, this Order serves as an official warning to Plaintiff before the Court dismisses this action for failure to prosecute.